

GOVERNMENT OPERATIONS COMMITTEE AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies requirements related to reports given to the Government Operations Interim Committee and repeals, or modifies provisions regarding, certain boards and commissions.

Highlighted Provisions:

This bill:

- ▶ modifies the timing and format of reports required to be submitted to the Government Operations Interim Committee by the:
 - government records ombudsman;
 - Commission on Federalism;
 - Free Market Protection and Privatization Board; and
 - Federal Funds Commission;
- ▶ repeals the Rural Development Legislative Liaison Committee;
- ▶ repeals the Legislative Committee on Landfill Siting Disputes;
- ▶ repeals the Government Procurement Private Proposal Program Committee and related provisions;
- ▶ repeals the Constitutional Revision Commission;
- ▶ requires the Data Security Management Council to meet at least quarterly rather than monthly; and
- ▶ makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-12-111, as last amended by Laws of Utah 2013, Chapter 278

- 33 **63C-4a-303**, as last amended by Laws of Utah 2014, Chapter 221
- 34 **63C-14-301**, as last amended by Laws of Utah 2015, Chapter 409
- 35 **63F-1-205**, as last amended by Laws of Utah 2017, Chapter 238
- 36 **63F-2-102**, as last amended by Laws of Utah 2017, Chapter 382
- 37 **63G-2-305**, as last amended by Laws of Utah 2017, Chapters 374, 382, and 415
- 38 **63G-6a-304**, as last amended by Laws of Utah 2015, Chapter 283
- 39 **63G-6a-305**, as last amended by Laws of Utah 2015, Chapter 283
- 40 **63I-4a-203**, as last amended by Laws of Utah 2016, Chapter 182
- 41 REPEALS:
- 42 **19-6-102.6**, as last amended by Laws of Utah 2012, Chapter 360
- 43 **36-25-101**, as enacted by Laws of Utah 2004, Chapter 73
- 44 **36-25-102**, as last amended by Laws of Utah 2014, Chapter 387
- 45 **36-25-103**, as enacted by Laws of Utah 2004, Chapter 73
- 46 **36-25-104**, as enacted by Laws of Utah 2004, Chapter 73
- 47 **63G-6a-711**, as last amended by Laws of Utah 2015, Chapter 283
- 48 **63I-3-101**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 49 **63I-3-102**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 50 **63I-3-201**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 51 **63I-3-202**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 52 **63I-3-203**, as last amended by Laws of Utah 2011, Chapter 384
- 53 **63I-3-204**, as last amended by Laws of Utah 2011, Chapter 384
- 54 **63I-3-205**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 55 **63I-3-206**, as last amended by Laws of Utah 2014, Chapter 387
- 56 **63I-3-207**, as last amended by Laws of Utah 2011, Chapter 384
- 57 **63N-13-201**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 58 **63N-13-202**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 59 **63N-13-203**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 60 **63N-13-204**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 61 **63N-13-205**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 62 **63N-13-206**, as last amended by Laws of Utah 2016, Chapter 222
- 63 **63N-13-207**, as renumbered and amended by Laws of Utah 2015, Chapter 283

64 **63N-13-208**, as renumbered and amended by Laws of Utah 2015, Chapter 283

65 **63N-13-209**, as last amended by Laws of Utah 2016, Chapter 222

66 **63N-13-210**, as last amended by Laws of Utah 2016, Chapter 222

67 **63N-13-211**, as renumbered and amended by Laws of Utah 2015, Chapter 283

68 **63N-13-212**, as renumbered and amended by Laws of Utah 2015, Chapter 283

69

70 *Be it enacted by the Legislature of the state of Utah:*

71 Section 1. Section **63A-12-111** is amended to read:

72 **63A-12-111. Government records ombudsman.**

73 (1) (a) The director of the division shall appoint a government records ombudsman.

74 (b) The government records ombudsman may not be a member of the records

75 committee.

76 (2) The government records ombudsman shall:

77 (a) be familiar with the provisions of Title 63G, Chapter 2, Government Records

78 Access and Management Act;

79 (b) serve as a resource for a person who is making or responding to a records request or
80 filing an appeal relating to a records request;

81 (c) upon request, attempt to mediate disputes between requestors and responders; and

82 (d) on an annual basis, electronically transmit a written report to the Government

83 Operations Interim Committee on the work performed by the government records ombudsman

84 during the previous year.

85 (3) The government records ombudsman may not testify, or be compelled to testify,

86 before the records committee, another administrative body, or a court regarding a matter that

87 the government records ombudsman provided services in relation to under this section.

88 Section 2. Section **63C-4a-303** is amended to read:

89 **63C-4a-303. Duties of Commission on Federalism.**

90 (1) In accordance with Section 63C-4a-304, the commission may evaluate a federal

91 law:

92 (a) as agreed by a majority of the commission; or

93 (b) submitted to the commission by a council member.

(2) The commission may request information regarding a federal law under evaluation from a United States senator or representative elected from the state.

(3) If the commission finds that a federal law is not authorized by the United States Constitution or violates the principle of federalism as described in Subsection 63C-4a-304(2), a commission cochair may:

(a) request from a United States senator or representative elected from the state:

(i) information about the federal law; or

(ii) assistance in communicating with a federal governmental entity regarding the federal law;

(b) (i) give written notice of an evaluation made under Subsection (1) to the federal governmental entity responsible for adopting or administering the federal law; and

(ii) request a response by a specific date to the evaluation from the federal governmental entity; and

(c) request a meeting, conducted in person or by electronic means, with the federal governmental entity, a representative from another state, or a United States Senator or Representative elected from the state to discuss the evaluation of federal law and any possible remedy.

(4) The commission may recommend to the governor that the governor call a special session of the Legislature to give the Legislature an opportunity to respond to the commission's evaluation of a federal law.

(5) A commission cochair may coordinate the evaluation of and response to federal law with another state as provided in Section 63C-4a-305.

(6) ~~[On May 20 and October 20 of each]~~ Each year, the commission shall submit a report by electronic mail to the Legislative Management Committee and the Government Operations Interim Committee that summarizes:

(a) action taken by the commission in accordance with this section; and

(b) action taken by, or communication received from, any of the following in response to a request or inquiry made, or other action taken, by the commission:

(i) a United States senator or representative elected from the state;

(ii) a representative of another state; or

(iii) a federal entity, official, or employee.

(7) The commission shall keep a current list on the Legislature's website of:

(a) a federal law that the commission evaluates under Subsection (1);

(b) an action taken by a cochair of the commission under Subsection (3);

(c) any coordination undertaken with another state under Section 63C-4a-305; and

(d) any response received from a federal government entity that was requested under Subsection (3).

(8) The commission shall develop curriculum for a seminar on the principles of federalism. The curriculum shall be available to the general public and include:

(a) fundamental principles of federalism;

(b) the sovereignty, supremacy, and jurisdiction of the individual states, including their police powers;

(c) the history and practical implementation of the Tenth Amendment to the United States Constitution;

(d) the authority and limits on the authority of the federal government as found in the United States Constitution;

(e) the relationship between the state and federal governments;

(f) methods of evaluating a federal law in the context of the principles of federalism;

(g) how and when challenges should be made to a federal law or regulation on the basis of federalism;

(h) the separate and independent powers of the state that serve as a check on the federal government;

(i) first amendment rights and freedoms contained therein; and

(j) any other issues relating to federalism the commission considers necessary.

(9) The commission may apply for and receive grants, and receive private donations to assist in funding the creation, enhancement, and dissemination of the curriculum.

Section 3. Section **63C-14-301** is amended to read:

63C-14-301. Commission duties.

(1) Until November 30, 2019, the commission shall:

(a) study and assess:

(i) the financial stability of the federal government;

(ii) the level of dependency that the state and local governments have on the receipt of

federal funds;

(iii) the risk that the state and local governments in the state will experience a reduction in the amount or value of federal funds they receive, in both the near and distant future;

(iv) the likely and potential impact on the state and its citizens from a reduction in the amount or value of federal funds received by the state and by local governments in the state, in both the near and distant future; and

(v) the likely and potential national impact from a reduction in the amount or value of federal funds paid to the states, in both the near and distant future; and

(b) make recommendations to the governor and Legislature on methods to:

(i) avoid or minimize the risk of a reduction in the amount or value of federal funds by the state and by local governments in the state;

(ii) reduce the dependency of the state and of local governments in the state on federal funds; and

(iii) prepare for and respond to a reduction in the amount or value of federal funds by the state and by local governments in the state.

(2) After November 30, 2019, the commission shall study, assess, and provide recommendations on any federal issue that the governor, the Legislature through a joint resolution of the Legislature, or the Legislative Management Committee directs the commission to study, assess, and make recommendations on.

(3) ~~[On or before November 30 of each year, the]~~ The commission shall present a report to the Government Operations Interim Committee of the Legislature each year on the commission's findings and recommendations.

Section 4. Section **63F-1-205** is amended to read:

63F-1-205. Approval of acquisitions of information technology.

(1) (a) ~~[Except as provided in Title 63N, Chapter 13, Part 2, Government Procurement Private Proposal Program, in]~~ In accordance with Subsection (2), the chief information officer shall approve the acquisition by an executive branch agency of:

(i) information technology equipment;

(ii) telecommunications equipment;

(iii) software;

(iv) services related to the items listed in Subsections (1)(a)(i) through (iii); and

(v) data acquisition.

(b) The chief information officer may negotiate the purchase, lease, or rental of private or public information technology or telecommunication services or facilities in accordance with this section.

(c) Where practical, efficient, and economically beneficial, the chief information officer shall use existing private and public information technology or telecommunication resources.

(d) Notwithstanding another provision of this section, an acquisition authorized by this section shall comply with rules made by the applicable rulemaking authority under Title 63G, Chapter 6a, Utah Procurement Code.

(2) Before negotiating a purchase, lease, or rental under Subsection (1) for an amount that exceeds the value established by the chief information officer by rule in accordance with Section 63F-1-206, the chief information officer shall:

(a) conduct an analysis of the needs of executive branch agencies and subscribers of services and the ability of the proposed information technology or telecommunications services or supplies to meet those needs; and

(b) for purchases, leases, or rentals not covered by an existing statewide contract, certify in writing to the chief procurement officer in the Division of Purchasing and General Services that:

(i) the analysis required in Subsection (2)(a) was completed; and

(ii) based on the analysis, the proposed purchase, lease, rental, or master contract of services, products, or supplies is practical, efficient, and economically beneficial to the state and the executive branch agency or subscriber of services.

(3) In approving an acquisition described in Subsections (1) and (2), the chief information officer shall:

(a) establish by administrative rule, in accordance with Section 63F-1-206, standards under which an agency must obtain approval from the chief information officer before acquiring the items listed in Subsections (1) and (2);

(b) for those acquisitions requiring approval, determine whether the acquisition is in compliance with:

(i) the executive branch strategic plan;

- 218 (ii) the applicable agency information technology plan;
- 219 (iii) the budget for the executive branch agency or department as adopted by the
- 220 Legislature;
- 221 (iv) Title 63G, Chapter 6a, Utah Procurement Code; and
- 222 (v) the information technology accessibility standards described in Section 63F-1-210;
- 223 and
- 224 (c) in accordance with Section 63F-1-207, require coordination of acquisitions between
- 225 two or more executive branch agencies if it is in the best interests of the state.
- 226 (4) Each executive branch agency shall provide the chief information officer with
- 227 complete access to all information technology records, documents, and reports:
- 228 (a) at the request of the chief information officer; and
- 229 (b) related to the executive branch agency's acquisition of any item listed in Subsection
- 230 (1).
- 231 (5) (a) In accordance with administrative rules established by the department under
- 232 Section 63F-1-206, an executive branch agency and the department may not initiate a new
- 233 technology project unless the technology project is described in a formal project plan and a
- 234 business case analysis is approved by the chief information officer and the highest ranking
- 235 executive branch agency official.
- 236 (b) The project plan and business case analysis required by this Subsection (5) shall
- 237 include:
- 238 (i) a statement of work to be done and existing work to be modified or displaced;
- 239 (ii) total cost of system development and conversion effort, including system analysis
- 240 and programming costs, establishment of master files, testing, documentation, special
- 241 equipment cost and all other costs, including overhead;
- 242 (iii) savings or added operating costs that will result after conversion;
- 243 (iv) other advantages or reasons that justify the work;
- 244 (v) source of funding of the work, including ongoing costs;
- 245 (vi) consistency with budget submissions and planning components of budgets; and
- 246 (vii) whether the work is within the scope of projects or initiatives envisioned when the
- 247 current fiscal year budget was approved.
- 248 (c) The chief information officer shall determine the required form of the project plan

and business case analysis described in this Subsection (5).

(6) The chief information officer and the Division of Purchasing and General Services within the Department of Administrative Services shall work cooperatively to establish procedures under which the chief information officer shall monitor and approve acquisitions as provided in this section.

Section 5. Section **63F-2-102** is amended to read:

63F-2-102. Data Security Management Council -- Membership -- Duties.

(1) There is created the Data Security Management Council composed of nine members as follows:

(a) the chief information officer appointed under Section 63F-1-201, or the chief information officer's designee;

(b) one individual appointed by the governor;

(c) one individual appointed by the speaker of the House of Representatives and the president of the Senate from the Legislative Information Technology Steering Committee; and

(d) the highest ranking information technology official, or the highest ranking information technology official's designee, from each of:

(i) the Judicial Council;

(ii) the State Board of Regents;

(iii) the State Board of Education;

(iv) the Utah System of Technical Colleges Board of Trustees;

(v) the State Tax Commission; and

(vi) the Office of the Attorney General.

(2) The council shall elect a chair of the council by majority vote.

(3) (a) A majority of the members of the council constitutes a quorum.

(b) Action by a majority of a quorum of the council constitutes an action of the council.

(4) The Department of Technology Services shall provide staff to the council.

(5) The council shall meet [~~monthly~~] quarterly, or as often as necessary, to:

(a) review existing state government data security policies;

(b) assess ongoing risks to state government information technology;

(c) create a method to notify state and local government entities of new risks;

(d) coordinate data breach simulation exercises with state and local government

entities; and

(e) develop data security best practice recommendations for state government that include recommendations regarding:

(i) hiring and training a chief information security officer for each government entity;

(ii) continuous risk monitoring;

(iii) password management;

(iv) using the latest technology to identify and respond to vulnerabilities;

(v) protecting data in new and old systems; and

(vi) best procurement practices.

(6) A member who is not a member of the Legislature may not receive compensation or benefits for the member's service but may receive per diem and travel expenses as provided in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

Section 6. Section **63G-2-305** is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or

commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties, a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(a) an invitation for bids;

(b) a request for proposals;

(c) a request for quotes;

(d) a grant; or

(e) other similar document;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the

governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not

generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of

legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of

435 valuable historic, scientific, educational, or cultural information;

436 (27) records of independent state agencies if the disclosure of the records would
437 conflict with the fiduciary obligations of the agency;

438 (28) records of an institution within the state system of higher education defined in
439 Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,
440 retention decisions, and promotions, which could be properly discussed in a meeting closed in
441 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
442 the final decisions about tenure, appointments, retention, promotions, or those students
443 admitted, may not be classified as protected under this section;

444 (29) records of the governor's office, including budget recommendations, legislative
445 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
446 policies or contemplated courses of action before the governor has implemented or rejected
447 those policies or courses of action or made them public;

448 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
449 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
450 recommendations in these areas;

451 (31) records provided by the United States or by a government entity outside the state
452 that are given to the governmental entity with a requirement that they be managed as protected
453 records if the providing entity certifies that the record would not be subject to public disclosure
454 if retained by it;

455 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body
456 except as provided in Section 52-4-206;

457 (33) records that would reveal the contents of settlement negotiations but not including
458 final settlements or empirical data to the extent that they are not otherwise exempt from
459 disclosure;

460 (34) memoranda prepared by staff and used in the decision-making process by an
461 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
462 other body charged by law with performing a quasi-judicial function;

463 (35) records that would reveal negotiations regarding assistance or incentives offered
464 by or requested from a governmental entity for the purpose of encouraging a person to expand
465 or locate a business in Utah, but only if disclosure would result in actual economic harm to the

person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

497 (iii) unpublished manuscripts;
498 (iv) creative works in process;
499 (v) scholarly correspondence; and
500 (vi) confidential information contained in research proposals;
501 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
502 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
503 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
504 (41) (a) records in the custody or control of the Office of Legislative Auditor General
505 that would reveal the name of a particular legislator who requests a legislative audit prior to the
506 date that audit is completed and made public; and
507 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
508 Office of the Legislative Auditor General is a public document unless the legislator asks that
509 the records in the custody or control of the Office of Legislative Auditor General that would
510 reveal the name of a particular legislator who requests a legislative audit be maintained as
511 protected records until the audit is completed and made public;
512 (42) records that provide detail as to the location of an explosive, including a map or
513 other document that indicates the location of:
514 (a) a production facility; or
515 (b) a magazine;
516 (43) information:
517 (a) contained in the statewide database of the Division of Aging and Adult Services
518 created by Section 62A-3-311.1; or
519 (b) received or maintained in relation to the Identity Theft Reporting Information
520 System (IRIS) established under Section 67-5-22;
521 (44) information contained in the Management Information System and Licensing
522 Information System described in Title 62A, Chapter 4a, Child and Family Services;
523 (45) information regarding National Guard operations or activities in support of the
524 National Guard's federal mission;
525 (46) records provided by any pawn or secondhand business to a law enforcement
526 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
527 Secondhand Merchandise Transaction Information Act;

528 (47) information regarding food security, risk, and vulnerability assessments performed
529 by the Department of Agriculture and Food;

530 (48) except to the extent that the record is exempt from this chapter pursuant to Section
531 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or
532 prepared or maintained by the Division of Emergency Management, and the disclosure of
533 which would jeopardize:

534 (a) the safety of the general public; or

535 (b) the security of:

536 (i) governmental property;

537 (ii) governmental programs; or

538 (iii) the property of a private person who provides the Division of Emergency
539 Management information;

540 (49) records of the Department of Agriculture and Food that provides for the
541 identification, tracing, or control of livestock diseases, including any program established under
542 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
543 of Animal Disease;

544 (50) as provided in Section 26-39-501:

545 (a) information or records held by the Department of Health related to a complaint
546 regarding a child care program or residential child care which the department is unable to
547 substantiate; and

548 (b) information or records related to a complaint received by the Department of Health
549 from an anonymous complainant regarding a child care program or residential child care;

550 (51) unless otherwise classified as public under Section 63G-2-301 and except as
551 provided under Section 41-1a-116, an individual's home address, home telephone number, or
552 personal mobile phone number, if:

553 (a) the individual is required to provide the information in order to comply with a law,
554 ordinance, rule, or order of a government entity; and

555 (b) the subject of the record has a reasonable expectation that this information will be
556 kept confidential due to:

557 (i) the nature of the law, ordinance, rule, or order; and

558 (ii) the individual complying with the law, ordinance, rule, or order;

(52) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

~~[(53)] an initial proposal under Title 63N, Chapter 13, Part 2, Government Procurement Private Proposal Program, to the extent not made public by rules made under that chapter;~~

~~[(54)]~~ (53) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

~~[(55)]~~ (54) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

~~[(56)]~~ (55) records contained in the Management Information System created in Section 62A-4a-1003;

~~[(57)]~~ (56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

~~[(58)]~~ (57) information requested by and provided to the 911 Division under Section 63H-7a-302;

~~[(59)]~~ (58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

~~[(60)]~~ (59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or

allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

~~[(61)]~~ (60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

~~[(62)]~~ (61) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

~~[(63)]~~ (62) a record described in Section 63G-12-210;

~~[(64)]~~ (63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

~~[(65)]~~ (64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim

621 Reparations Fund;

622 ~~[(66)]~~ (65) an audio or video recording created by a body-worn camera, as that term is
623 defined in Section 77-7a-103, that records sound or images inside a hospital or health care
624 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care
625 provider, as that term is defined in Section 78B-3-403, or inside a human service program as
626 that term is defined in Subsection 62A-2-101(19)(a)(vi), except for recordings that:

627 (a) depict the commission of an alleged crime;

628 (b) record any encounter between a law enforcement officer and a person that results in
629 death or bodily injury, or includes an instance when an officer fires a weapon;

630 (c) record any encounter that is the subject of a complaint or a legal proceeding against
631 a law enforcement officer or law enforcement agency;

632 (d) contain an officer involved critical incident as defined in Subsection
633 76-2-408(1)(d); or

634 (e) have been requested for reclassification as a public record by a subject or
635 authorized agent of a subject featured in the recording; and

636 ~~[(67)]~~ (66) a record pertaining to the search process for a president of an institution of
637 higher education described in Section 53B-2-102, except for application materials for a
638 publicly announced finalist.

639 Section 7. Section **63G-6a-304** is amended to read:

640 **63G-6a-304. Delegation of authority.**

641 ~~[(1)]~~ In accordance with rules made by the board, the chief procurement officer may
642 delegate authority to designees or to any department, agency, or official.

643 ~~[(2) For a procurement under Title 63N, Chapter 13, Part 2, Government Procurement~~
644 ~~Private Proposal Program, any delegation by the chief procurement officer under this section~~
645 ~~shall be made to the Governor's Office of Economic Development.]~~

646 Section 8. Section **63G-6a-305** is amended to read:

647 **63G-6a-305. Duty of chief procurement officer in maintaining specifications.**

648 (1) The chief procurement officer may prepare, issue, revise, maintain, and monitor the
649 use of specifications for each procurement over which the chief procurement officer has
650 authority.

651 (2) The chief procurement officer shall obtain expert advice and assistance from

personnel of procurement units in the development of specifications and may delegate in writing to a procurement unit the authority to prepare and utilize its own specifications.

~~[(3) For a procurement under Title 63N, Chapter 13, Part 2, Government Procurement Private Proposal Program, any delegation by the chief procurement officer under this section shall be made to the Governor's Office of Economic Development.]~~

Section 9. Section **63I-4a-203** is amended to read:

63I-4a-203. Free Market Protection and Privatization Board -- Duties.

(1) The board shall:

(a) determine whether an activity provided by an agency could be privatized to provide the same types and quality of a good or service that would result in cost savings;

(b) review privatization of an activity at the request of:

(i) an agency; or

(ii) a private enterprise;

(c) review issues concerning agency competition with one or more private enterprises to determine:

(i) whether privatization:

(A) would be feasible;

(B) would result in cost savings; and

(C) would result in equal or better quality of a good or service; and

(ii) ways to eliminate any unfair competition with a private enterprise;

(d) recommend privatization to an agency if a proposed privatization is demonstrated to provide a more cost efficient and effective manner of providing a good or service, taking into account:

(i) the scope of providing the good or service;

(ii) whether cost savings will be realized;

(iii) whether quality will be improved;

(iv) the impact on risk management;

(v) the impact on timeliness;

(vi) the ability to accommodate fluctuating demand;

(vii) the ability to access outside expertise;

(viii) the impact on oversight;

(ix) the ability to develop sound policy and implement best practices; and

(x) legal and practical impediments to privatization;

(e) comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in making rules establishing privatization standards, procedures, and requirements;

(f) in fulfilling the duties described in this Subsection (1), consult with, maintain communication with, and access information from:

(i) other entities promoting privatization; and

(ii) managers and employees in the public sector;

(g) comply with Part 3, Commercial Activities Inventory and Review; and

(h) (i) prepare an annual report [~~for each calendar year~~] that contains:

(A) information about the board's activities;

(B) recommendations on privatizing an activity provided by an agency; and

(C) the status of the inventory created under Part 3, Commercial Activities Inventory and Review; and

(ii) each year, electronically submit the [annual] report described in Subsection (1)(h)(i) to the [Legislature] Government Operations Interim Committee and the governor [by no later than January 15 immediately following the calendar year for which the report is made; and].

~~[(iii) submit, before November 1, an annual written report to the Government Operations Interim Committee.]~~

(2) (a) The board may, using the criteria described in Subsection (1), consider whether to recommend privatization of an activity provided by an agency or a local entity:

(i) on the board's own initiative;

(ii) upon request by an agency or a local entity;

(iii) in response to a complaint that an agency or a local entity is engaging in unfair competition with a private enterprise; or

(iv) in light of a proposal made by any person, regardless of whether the proposal was solicited.

(b) The board may, using the criteria described in Subsection (1), consider whether to recommend privatization of an activity provided by an entity that is an exempted agency under Subsection 63I-4a-102(2)(b) if the entity requests that the board review privatization of the

714 activity provided by the entity.

715 (3) In addition to filing a copy of recommendations for privatization with an agency
716 head, the board shall file a copy of its recommendations for privatization with:

717 (a) the governor's office; and

718 (b) the Office of Legislative Fiscal Analyst for submission to the relevant legislative
719 appropriation subcommittee.

720 (4) (a) The board may appoint advisory groups to conduct studies, research, or
721 analyses, and make reports and recommendations with respect to a matter within the
722 jurisdiction of the board.

723 (b) At least one member of the board shall serve on each advisory group.

724 (5) (a) Subject to Subsection (5)(b), this chapter does not preclude an agency from
725 privatizing the provision of a good or service independent of the board.

726 (b) If an agency privatizes the provision of a good or service, the agency shall include
727 as part of the contract that privatizes the provision of the good or service that any contractor
728 assumes all liability to provide the good or service.

729 Section 10. **Repealer.**

730 This bill repeals:

731 Section **19-6-102.6, Legislative participation in landfill siting disputes.**

732 Section **36-25-101, Title.**

733 Section **36-25-102, Rural Development Legislative Liaison Committee -- Creation**
734 **-- Membership -- Chairs -- Salary -- Expenses.**

735 Section **36-25-103, Duties.**

736 Section **36-25-104, Staff support.**

737 Section **63G-6a-711, Procurement for submitted proposal.**

738 Section **63I-3-101, Title.**

739 Section **63I-3-102, Definitions.**

740 Section **63I-3-201, Creation -- Members -- Appointment -- Qualifications -- Term**
741 **of office -- Maximum length of service.**

742 Section **63I-3-202, Vacancies -- Person filling a vacancy begins serving new term.**

743 Section **63I-3-203, Duties.**

744 Section **63I-3-204, The commission may invite testimony.**

745 Section **63I-3-205, Public hearings -- Purpose.**
746 Section **63I-3-206, Per diem and travel expenses of members.**
747 Section **63I-3-207, Appointment of staff.**
748 Section **63N-13-201, Title.**
749 Section **63N-13-202, Definitions.**
750 Section **63N-13-203, Government Procurement Private Proposal Program --**
751 **Proposals -- Rulemaking.**
752 Section **63N-13-204, Committee for reviewing proposals -- Appointment --**
753 **Accepting or rejecting a proposal.**
754 Section **63N-13-205, Initial proposal -- Requirements.**
755 Section **63N-13-206, Review of initial proposal -- Affected department review.**
756 Section **63N-13-207, Acceptance of initial proposal -- Obtaining detailed proposals.**
757 Section **63N-13-208, Detailed proposal -- Requirements -- Cooperation of affected**
758 **department.**
759 Section **63N-13-209, Receipt of detailed proposals -- Economic feasibility report --**
760 **Acceptance of a detailed proposal.**
761 Section **63N-13-210, Project agreement.**
762 Section **63N-13-211, Advisory committee.**
763 Section **63N-13-212, Private Proposal Expendable Special Revenue Fund -- Fees.**